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**JUL 31 2007**

**OFFICE OF PETITIONS**

In re Application	:
Golovchinsky, et al.	:
Application No. 09/944,817	: DECISION ON APPLICATION
Filed: August 31, 2001	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. FXPL-01001US0	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)", filed June 19, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred eighty-three (483) days to six hundred ninety-four (694) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred ninety-four (694) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 21, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified

application. The Notice stated that the patent term adjustment (PTA) to date is four hundred eighty-three (483) days. On June 19, 2007, Applicants timely<sup>1</sup> submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is six hundred ninety-four (694) days.

Applicants assert entitlement to a patent term adjustment of six hundred ninety-four (694) days on the basis that the Office improperly assessed PTO delay for mailing a first Office action within fourteen months at six hundred, thirty-seven (637) days. Accordingly to Applicants, PTO delay should have been assessed as seven hundred forty-three (743) days. In addition, Applicants assert that they were improperly assessed Applicant delay of one hundred five (105) days for responding to an Office action, when in fact zero (0) days should have been assessed.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of four hundred eighty-three (483) days based on an adjustment for PTO delay of six hundred thirty-seven (637) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and fifty-three (53) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicants' delays of thirteen (13), one hundred five (105), thirty-two (32), one (1) and fifty-six (56) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

The adjustment of six hundred thirty-seven (637) days has been found to be incorrect. A review of the file reveals that the application was filed on August 31, 2001. The Office mailed a first action on July 29, 2004, and was assessed delay of six hundred thirty-seven (637) days. However, a review of the file reveals that the Office erroneously mailed the action to the wrong address. The action was re-mailed to the correct address on November 12, 2004. Accordingly, it is concluded that the Office should have been assessed delay according to the November 12, 2004 date, or seven hundred forty-three (743) days, not the six hundred thirty-seven (637) days associated with July 29, 2004.

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<sup>1</sup> Applicants filed the application for patent term adjustment on the same date as the issue fee.

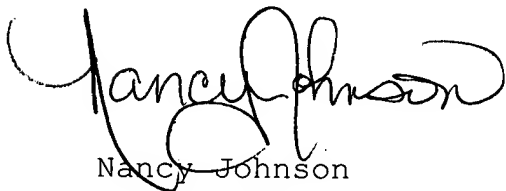
In view of the above, applicant should not have been assessed one hundred five (105) days of delay for filing a response on February 11, 2005, when the Office did not mail the action to the correct address until November 12, 2004. As the February 11, 2005 reply was timely, zero (0) days of applicant delay should have been assessed with respect to this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred ninety-four (694) days** (796 (743+56) days of PTO delay and 102 (13+32+1+56) days of applicant delay).

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a large, stylized initial "N" and "J".

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Monday  
Date: 7/30/2007

# PALM INTRANET

Time: 19:10:59

## PTA Calculations for Application: 09/944817

Application Filing Date:	08/31/2001	PTO Delay (PTO):	690
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	207
Post-Issue Petitions:	0	Total PTA (days):	694
PTO Delay Adjustment:	211		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	07/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	105		
67	07/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	743		
66	07/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		637	
57	03/21/2007	MAIL NOTICE OF ALLOWANCE			
56	03/19/2007	ISSUE REVISION COMPLETED			
55	03/19/2007	DOCUMENT VERIFICATION			
54	03/19/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	03/19/2007	NOTICE OF ALLOWABILITY			
52	01/23/2007	DATE FORWARDED TO EXAMINER			
51	01/03/2007	RESPONSE AFTER NON-FINAL ACTION		56	46
50	01/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	10/20/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
48	10/13/2006	LETTER REQUESTING INTERVIEW WITH EXAMINER			
47	10/16/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
46	08/08/2006	MAIL NON-FINAL REJECTION			
45	08/07/2006	NON-FINAL REJECTION			
44	06/01/2006	DATE FORWARDED TO EXAMINER			
43	05/22/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	06/01/2006	DATE FORWARDED TO EXAMINER			
41	05/22/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		1	38
		DISPOSAL FOR A RCE/CPA/129 (EXPRESS			

40	06/01/2006	ABANDONMENT IF CPA)			
39	05/22/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	02/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
37	02/16/2006	FINAL REJECTION			
36	12/13/2005	DATE FORWARDED TO EXAMINER			
35	12/05/2005	RESPONSE AFTER NON-FINAL ACTION		32	33
34	12/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	08/03/2005	MAIL NON-FINAL REJECTION	53		30
32	08/02/2005	NON-FINAL REJECTION			
31	05/25/2005	DATE FORWARDED TO EXAMINER			
30	02/11/2005	RESPONSE AFTER NON-FINAL ACTION		105	21
27	11/12/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
26	11/01/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
23	10/06/2004	CORRESPONDENCE ADDRESS CHANGE			
22	10/06/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
21	07/29/2004	MAIL NON-FINAL REJECTION	637		-1
20	07/26/2004	NON-FINAL REJECTION			
19	07/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	05/12/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	06/05/2002	REFERENCE CAPTURE ON IDS			
16	03/30/2004	CORRESPONDENCE ADDRESS CHANGE			
15	03/30/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14	10/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	06/05/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/28/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	02/28/2002	APPLICATION DISPATCHED FROM OIPE			
10	02/28/2002	APPLICATION IS NOW COMPLETE			
9	02/28/2002	CORRESPONDENCE ADDRESS CHANGE			
7	01/17/2002	ADDITIONAL APPLICATION FILING FEES		13	5
6	01/17/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
		NOTICE MAILED--APPLICATION INCOMPLETE--			

5	10/04/2001	FILING DATE ASSIGNED			
4	10/04/2001	CORRESPONDENCE ADDRESS CHANGE			
3	10/04/2001	CORRESPONDENCE ADDRESS CHANGE			
2	09/07/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/31/2001	INITIAL EXAM TEAM NN			

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**EXPLANATION OF PTA CALCULATION**

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